



King County

Metropolitan King County Council Growth Management and Natural Resources Committee

Agenda Item: 3

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REVISED

(substantive revisions shown in italics and underlining)

SUBJECT

Briefing on Executive's 2008 recommended amendments to King County Comprehensive Plan ("KCCP"), Chapter 8 – Services, Facilities and Utilities. Previously, the committee was briefed on those subparts relating to stormwater, solid waste and wastewater. This staff report contains analysis of the subparts of the chapter relating to water supply (Section II, subpart H), floodplain management (Section II, subpart L) and telecommunications (Section III, subpart B). The policies on energy in Section III of this Chapter will be covered in the June 3, 2008 staff report in conjunction with the review of Chapter 4, Environment.

SYNOPSIS OF KEY ISSUES

- Section H (Water Supply) sets out the policy framework for potable watery systems, regional water supply planning, utility system interties, water use planning and management, and resource protection.
- This subpart contains substantial amendments relating to water service responsibilities and priorities, service areas, timely and reasonable requirements, local and regional water planning, the role of the Utilities Technical Review Committee ("UTRC") and the County's authority.
- The proposed changes to policies are intended to clarify King County's role in coordinating and regulating water resources, growth, environmental protection (groundwater protection), and management of water resources.

- Some water purveyors have raised concerns regarding the proposed amendments. They are continuing to work with Department of Natural Resources and Parks (“DNRP”) staff to clarify the intent of some policies and discuss the County’s authority to implement some of the policy proposals.

Overview of Pertinent Chapter Sections and Issues:

1. **Subpart H, “Water Supply”** of Section II, found at pages 8-7 through 8-14 of the Executive’s proposed amendments to the Comprehensive Plan contains substantive changes to the existing policies.

BACKGROUND:

Within King County, there are approximately 1600-1700 public water systems.¹ Just over 200 of these are Group A systems. Of these, roughly 60 are required by state Department of Health to complete water system plans. King County currently reviews the plans for 49 systems, based on King County Code (“KCC”) provisions (chapter 13.24) that require review because these water purveyors either provide service in unincorporated King County, have facilities in unincorporated King County, or their source of supply is in unincorporated King County.

Via a number of statutory schemes, the state establishes its role and the roles of county governments with regard to planning for water supply.² Relevant to water supply policies, water utility service areas are defined in Coordinated Water System Plans (“CWSPs”), which describe the boundaries of a utility’s existing service area and planning area.³ Pursuant to the state’s Department of Health (“DOH”), a utility’s retail service area is determined by the utility, identified in its water system plan, and must include all areas where the utility currently provides service. The retail area may include areas where new service is proposed.⁴

Within a utility’s service area it has a “duty to serve.” Pursuant to RCW 43.20.260, a water supplier has a duty to provide retail water service within its service area “**if: (1) its service can be available in a timely and reasonable manner; (2) the municipal water supplier has sufficient water rights to provide the service; (3) the municipal water supplier has sufficient**

¹ A Group A water system is a public water system with 15 or more service connections, regardless of the number of people served, or a system serving an average of 25 or more people per day for 60 or more days within a calendar year, regardless of the number of service connections. A Group B water system is a public water system which is not a Group A system, with less than 15 service connections and serving an average of less than 25 people for 60 or more days. An individual water system (well) is one serving only one single family residence.

² Water resource management (RCW 90.54.090); watershed planning (RCW 90.82.060); growth management utilities element and resource protection (RCW 36.70A.070); special district water planning (RCW 57.16); water system coordination (RCW 70.116); municipal water law (RCW 43.20).

³ “...an existing service area is a geographic area within which service to customers is available as specifically defined on a map in a utility’s comprehensive plan which is approved by King County as consistent with its land use policies. A planning area is the remaining geographic area identified on the service area maps contained in the Coordinated Water System Plan which is a logical area for expansion of the system.” KCC 13.28.045.

⁴ DOH PUB. #331-366 (Updated), January 2008.

capacity to serve the water in a safe and reliable manner as determined by the DOH; and (4) it is consistent with the requirements of any comprehensive plans or development regulations adopted under the Growth Management Act.” Another service provider may provide water within the future service area of the designated water utility -- if the designated utility is unable to meet one or more of the conditions listed above.

It is in the utility’s water system plans (“WSPs”),⁵ where a municipal water supplier should consider and describe how it can meet four threshold factors within its retail service area:

- Capacity⁶
- Consistency⁷
- Water Rights⁸
- Timely and Reasonable⁹

A municipal water supplier must provide service for all requests within the retail service area; unless it demonstrates one or more of the four threshold factors was not met.

Water utilities most frequently decline to provide service when they cannot provide timely and reasonable service – though there is no consistent state standard for what is meant by “timely and reasonable service.” For utilities, the test for “reasonableness” is typically defined by economics, in terms of whether the cost of providing the service is reasonable to the utility.

The issue for King County is that a water utility’s system plan does not always clearly describe the utility’s intentions for timely and reasonable service. Therefore it is not transparent to land developers and individual property owners whether public water service is available. Secondly, challenges to utilities to providing timely and reasonable service has resulted in a proliferation of Group B and individual systems particularly in Rural Areas of the County.

King County’s Comprehensive Plan policies regarding Potable Water Systems (F-225 through F-232 starting at page 8-8) and Regional Water Supply Planning (F-233 through F-235, starting on page 8-10) attempt to lay out King County’s duties and responsibilities to ensure potable water resources where land development is and will occur, as required by the state’s Growth Management Act.

⁵ Required under the 2003 Municipal Water Law (RCW 43.20) and the recently completed DOH regulations.

⁶ Municipal water suppliers must include a capacity determination in their water system plan. Capacity determinations incorporate a water system’s physical capacity (source and storage) and water right limitations.

⁷ Consistency applies to adopted comprehensive plans, land use plans, development regulations, and utility service extension ordinances. Consistency determinations must evaluate land use, six year growth projections, service extension ordinances, provisions of new water service, and other elements as determined by the DOH related to water supply planning. Municipal water suppliers must ask local governments to determine consistency. If the determination by the local government is not completed, the municipal water supplier must document efforts to be consistent and determine consistency, with DOH making the final determination .

⁸ The Department of Ecology (“DOE”) has regulatory authority and oversight for water right sufficiency determinations. The municipal water supplier must include a water right self-assessment in its water system plan, and DOH will forward it to the DOE for their review.

⁹ Municipal water suppliers must include their service policies in the water system plan describing how new service will be provided. DOH’s fact sheet state that it will provide guidance about what is “timely and reasonable.” However, the state has still not defined what constitutes “timely and reasonable.”

King County's interests adopting policies regarding water supply in the Comprehensive Plan include:

- Ensuring delivery of water utility service to meet the requirements under Growth Management Act; that is, water will be available when/where growth occurs.
- Establishing water utility service priorities, including a preference for delivery from existing systems to aid environmental protection and preservation of rural areas.
- Clarifying how the utilities can satisfy the "timely and reasonable" requirements under King County Code and delivery of service within service areas of municipal water suppliers.
- Providing more information in future water system plans about planned service in order that planners, developers (including individual property owners) have a better understanding regarding utilities' plans.
- Avoiding unnecessary proliferation of Group B water systems and individual wells (that are potentially harmful to aquifers and streamflows).

Chapter 8, Section H contains substantial amendments relating to water service responsibilities and priorities, service areas, timely and reasonable requirements, local and regional water planning, the role of the Utilities Technical Review Committee ("UTRC") and the breadth of the County's authority. The executive's proposed changes to Section H can be categorized into 4 major themes:

- County authority and mandates
- Groundwater protection
- Regional planning
- Technical changes

ANALYSIS

The changes to the introduction text to this subpart at page 8-7, provide a much more thorough discussion of the County's role for planning, permit issuance, and regulatory oversight and the responsibilities of the UTRC. Fundamental to the changes proposed is the recognition that meeting the projected needs for facilities and services is a goal of the Growth Management Act.¹⁰

Policy amendments are proposed to: (1) clarify what elements must be contained in the utility's water system plan to ensure adequate and appropriate water supply in both urban and rural areas of the County; and (2) use participation in regional water supply planning and review of local/municipal water supply planning to ensure goals with regard to efficiency, potential use of other sources such as reclaimed water, and consistency with other County plans meant to protect the public's health and welfare.

¹⁰ RCW 36.70A.020(12): "... public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards."

Certain water purveyors dispute King County's authority to regulate via approval or conditioning of water system plans because the Municipal Water Law does not give the County such authority. While it is the Executive's position that the Municipal Water Law does not prohibit the exercise of the mandates contained in these policies, it is the County's own law, KCC 13.24.010,¹¹ that provides the authority for the County to expand the planning elements required in water system plans as a prerequisite for operating in unincorporated King County; approval of annexation proposals; granting of new right-of-way franchises and right-of-way franchise renewals; and approval of right-of-way construction permits.

Department of Natural Resource and Parks staff and municipal water purveyors and their representatives continue to meet with the intent to provide revised policy language to achieve the objectives of the Executive and address the concerns of the water purveyors. It is expected that new proposed amendments will be forthcoming.

County Authority and Mandates

As noted above, there is a concern by some water utilities that King County is exceeding its authority to require the utility perform certain planning. For example:

F-225¹² (p. 8-8): mandates that in their water system plans, utilities "describe how they intend to provide timely and reasonable service within their service areas," including future service areas. The policy set outs detailed elements for the utility to include in its plan.

F-226 (p. 8-8): requires that utilities in their water system plans address the capital improvement/infrastructure improvements for providing service in the UGA.

F-229 (p. 8-9): requires that utilities in their water system plans address the capital improvement/infrastructure improvements for providing service in the Rural Area.

F-239 (p. 8-12): the Executive proposes to require that an element in the water system plans include an evaluation of reclaimed water opportunities.

F-240 (p. 8-12) calls out a number of other King County plans with which a water system plan should be consistent. Utilities are concerned that the list is too broad and includes areas of policy and regulation over which the utilities have no control. While consistency with King County development regulations and land use plans is in existing policy language, F-240 was modified to identify some specific plans.¹³

¹¹ In relevant part KCC 13.24.010 states: "Comprehensive plans for water and sewer districts or any other public or private entities that distribute or obtain water or provide sewer collection or treatment in unincorporated areas of King County shall be adopted by that entity and approved by the King County council as a prerequisite for the following: 1. Operating in unincorporated King County ..."

¹² Copies of the proposed policies are attached as Attachment 1 to this staff report.

¹³ F-240 In its review of water system (~~(comprehensive)~~) plans, the King County Utilities Technical Review Committee (UTRC) shall consider the criteria provided in K.C.C. 13.24.010, .060, and .070, and determine the plan's consistency with the following:

a. The King County Comprehensive Plan, land use plans, and development regulations adopted under the Growth Management Act;

Issue:

The utilities' concern is that by imposing these mandates and including them in the County's Comprehensive Plan, the County is exercising authority not granted it under the 2003 Municipal Water Law. However, the Executive is not relying on that state law but rather KCC 13.24.010, which provides the authority for the County to mandate the water utilities to comply with the expanded the planning elements contained in these policies.

Part of the confusion is the County's reliance on the term "water system plan," used in state legislation, when the enabling code provision KCC 13.24.010 uses the term "comprehensive plan." Over the course of the years, these two terms have morphed, with the County using them interchangeably, sometimes redundantly.¹⁴

As a home rule charter county, King County has the general power to make and enforce within its limits all such police, sanitary and other regulations as are not in conflict with general laws. These policies do not appear to conflict with any state law regarding water supply, including the Municipal Water Law.

The utilities and DNRP have been and continue to meet over this authority issue, as well as other issues. It is anticipated that new policy language could be forthcoming to help clarify these policies and their underpinnings.

Groundwater protection

F-229 (p. 8-9): New language is added at the end of this existing policy: "provision of water service within Rural Areas shall be guided by the principle of maintaining the long-term integrity of Rural Area ecosystems, consistent with Countywide Planning Policy LU-15."¹⁵

Issue:

Water utilities have expressed concern over the reference to LU-15 in this policy may not be appropriate as it is a land use policy relevant to King County but is not necessarily appropriate for inclusion within a water supply planning policy. However, one of the reasons the County

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- e. Other countywide plans managed by King County, such as the King County flood hazard management plan (as provided in Countywide Planning Policy CA-12) and the King County emergency management plan; and

- f. Other relevant county,such as those to address climate change impacts on water resources, and for restoring Puget Sound.

¹⁴ For example see F-241 and the term "water system comprehensive plan."

¹⁵ CPP LU-15 states: "Rural Areas should retain a high proportion of undisturbed soils to maintain groundwater recharge, high water quality and river and stream base flows essential to navigation, recreation and the survival of wildlife and fish. The long-term integrity of Rural Area ecosystems should be a guiding principle in establishing the location and intensity of land uses and public facilities in Rural Areas, the operating standards for resource-based activities, and rural facility standards."

prioritizes the types of water service providers is to protect the Rural Area environs from inappropriate placement of public facilities. RCW 36.70A.030(12) identifies domestic water systems as public facilities. Reference to this CPP is appropriate. The utilities have also raised the issue regarding potential overlapping responsibility for groundwater protection between the Department of Ecology and King County. DNRP is in ongoing discussion with water utilities and the state on this and the other policies relating to groundwater protection.

F-232 (p. 8-10): Requires additional collaboration between King County and the state to track and measure water withdrawal and supply. In new language to the policy, a reference to CCP CA-6¹⁶ is made: “Consistent with Countywide Planning Policy CA-6, any depletion or degradation of aquifers used for potable supplies shall be avoided or mitigated, or feasible replacement sources be planned and developed.”

Issue:

CA-6 states that land use actions should “*take into account*” potential impacts to aquifers while F-232 states that under CA-6 “*any depletion or degradation of aquifers used for potable supplies shall be avoided or mitigate.*” As written, F-232 does not accurately reflect the language or intent of CA-6. Through its discussions with the utilities, the Executive is now proposing to remove this last sentence.

Regional planning

Policies F-233 through 235, and 238 (p. 8-10 through 8-12): contain statements of King County’s interest in regional water supply planning and with the goal of cooperating with water utilities to produce a regional water supply plan. At this time, a regional water supply plan does not exist. F-223 and 234, as written, do not mandate the components of a regional water supply plan. The components listed in F-233 are suggestive.

Modified policy F-238 requires King County to participate in the development of a regional water supply plan and includes new language that is stronger than the previous suggestive language that use of reclaimed water “**should**” be coordinated in the regional water supply plan. The new language mandates that the County participate in regional water supply planning to “**ensure**” the inclusion of reclaimed water in regional and local planning processes. As the County intends to produce reclaimed water from its wastewater program, pursuant to state statute, regional water supply programs must consider its use.

Issue:

Water utilities have expressed concerns over King County’s role in regional water supply planning and do not want the Comprehensive Plan to appear to dictate the elements of a regional water supply plan. However, as a regional government, this is a role the County is

¹⁶ CPP CA-6 states: “Land use actions should take into account the potential impacts on aquifers determined to serve as water supplies. The depletion and degradation of aquifers needed for potable water supplies should be avoided or mitigated; otherwise a proven, feasible replacement source of water supply should be planned and developed to compensate for potential lost supplies.”

uniquely qualified to perform. Coordination and consistency are mainstays of GMA planning. Additionally, as the County intends to produce reclaimed water from its wastewater program, pursuant to state statute, regional water supply programs must consider its use. RCW 90.46.120.¹⁷ DNRP staff continues to work with the utilities on alternative policy language to clarify King County's role as a participant with other stakeholders in water supply planning.

Technical

F-225, 239 through 242 (p. 8-7, 8-12 through 8-13): Clarifies the role of the UTRC in light of the proposed changes of the expanded elements required to be included in comprehensive planning by water purveyors.

F-228 (p. 8-9): Does not have substantive changes. However, it may be appropriate to clarify that the appropriate party financially responsible for decommissioning abandoned wells is the well owner and the Department of Ecology is responsible for overseeing the process to ensure that groundwater is protected.

F-231 (p. 8-10): Would change the restrictions on well exemptions for new subdivisions. The County has already taken the position that basins and streams do not have unlimited capacity to allow for new water rights without negative impacts on systemic water resources and water dependent habitat. Council staff has asked Executive staff for further clarification on the impact of this proposed policy change. This proposed change also results in a change to KCC13.24.138.

F-233 and -234 (p. 8-8-10): In keeping with framework policy 102, these policies include as a consideration in water supply planning the potential impacts of climate change on future water supplies.

Additionally, the proposed amendment to F-233, and other proposed policies throughout the Comprehensive Plan, removes "federally recognized" in front of the word "tribe." With respect to proposed deletions in earlier chapters, central staff questioned the purpose of this removal and the proposed, complicated and confusing definition of tribes proposed for the glossary. The Executive has re-evaluated some of these proposed deletions. In the case of F-233, the Executive supports the retention of the qualifier, to be consistent with KCC 13.02.020 – Notification to Tribes. For the same reasons, central staff recommends that the phrase "federally recognized tribes" be use in place of "tribal governments" in F-234.

F-241 (p. 8-13): In the last paragraph of this policy the Executive proposes the following change:

¹⁷ In relevant part RCW 90.46.120 states: "If the proposed use or uses of reclaimed water are intended to augment or replace potable water supplies or create the potential for the development of additional potable water supplies, **such use or uses shall be considered in the development of any regional water supply plan or plans addressing potable water supply service by multiple water purveyors.** Such water supply plans include plans developed by multiple jurisdictions under the relevant provisions of chapters 43.20, 70.116, 90.44, and 90.82 RCW, and the water supply provisions under the utility element of chapter 36.70A RCW. The method by which such plans are approved shall remain unchanged." [Emphasis added.]

The county shall not approve a water system plan with a proposed service area where the water system is unable to provide timely and reasonable service for one or more of the reasons identified in RCW 43.20.260. ...

However, the inability to provide service because it is not “timely and reasonable” is the first reason listed in RCW 43.20.260. Therefore the inclusion of this phrase as a qualifier to “service” is not appropriate in this instance and it should be deleted.

F-243 (p. 8-14): Expands on the policy on managing watersheds for multiple purposes.

2. **Subpart L, “Floodplain Management,”** of Section II, found at page 8-18, includes new text recognizing that (1) the County’s Flood Hazard Management Plan is binding on all jurisdictions within the County, and (2) the creation of the Flood District. There are also technical changes correcting the name of the County’s flood planning document. A new policy F-268 is added that states that the costs of flood management will be shared among the jurisdictions in King County, the County and the Flood District.

These proposed changes in this subpart do not raise any issues.

3. **Subpart B, “Telecommunications,”** found at pages 8-28 through 8-30, has three elements: (1) telecommunications (land line telephone); (2) cable services; and (3) Internet access. King County does not provide these services; they are provided by private companies. The text to this subsection notes that reliable telecommunications systems are essential for life and safety during emergencies, and that they support a healthy economy and good quality of life.

a. Telecommunications (pp. 8-28 through 8-29)

The County has no regulatory authority in the field of telecommunications (land line telephone). Local governments are pre-empted by federal and state law. Local governments have limited authority to grant rights-of-way use permits and franchises.

Policies under the telecommunications subpart (F-329 through F-336) provide an overview of the County’s role. The Executive proposes no substantive changes to these policies. The policies recognize:

- King County complies with the Telecommunications Act and provides widespread availability through granting franchises to companies for systems to facilitate communications. (F-329)
- That telecommunications should be encouraged to reduce traffic congestion when employees telecommute. (F-330)
- That long range planning should include provisions to provide innovative products to consumers. (F-331)
- The benefit and efficiency of coordinating telecommunications investments with road construction projects. (F-332)

- Long term planning should allow for services during natural disasters. (F-333)
- Co-location of telecommunication facilities is not only beneficial but required, absent certain circumstances, to reduce the unnecessary proliferation of individual, single-user towers. (F-334)
- Visual impacts of towers will be a consideration in approving any proposal and will be given greater weight if the proposed tower is located in either a residential-zoned area or in the Rural Area. (F-335)
- That it is preferable to locate telecommunications facilities in road rights-of-way than on private property. (F-336)

Issue:

Policy F-329 is a declaratory and does not provide any policy direction. Central staff recommends that it be deleted. In the arena of land-line telephone service, the County must comply with the Telecommunications Act. The remaining language of the policy is superfluous.

Policy F-330 could be strengthened by recognizing that telecommuting also helps reduce the production of greenhouse gasses.

Policy F-334 could be modified to clarify that the County encourages the telecommunications provider to perform this long range planning.

b. Cable Services (p. 8-29)

Unlike in telephone arena, King County is authorized to regulate aspects of cable companies operation of those which seek or hold franchise agreements with the County. In these franchises agreements, the County exercises regulatory authority over such issues as customer service standards, quality of service standards and accessibility to public, educational and governmental programming. Currently only two private companies hold franchise agreements with the County. The Millennium Cable Corp. franchise agreement is up for renewal in 2009. This agreement covers a rather small area near Duvall and Carnation and serves about 2,000 customers. The Comcast Corp. franchises are up for renewal in 2010 and cover a significant portion of unincorporated King County serving about 85,000 customers. Additionally, a third company has recently applied for a franchise.

The Council stated its intent, through a 2008 budget proviso, to adopt policies to help guide upcoming cable negotiations. It is unclear if these negotiation policies will be adopted in time to be incorporated into the Comprehensive Plan, if appropriate.

There are only five policies related to cable services and no changes are proposed by the Executive to the policies. These policies recognize:

- Long-term planning for should include service to all areas of the County as required by each franchise agreement and the County's Cable Television Ordinance. (F-337)

- Recognizing cost as a factor, nevertheless, cable companies should provide services that meet the needs and interests of all segments of the community. (F-338)
- Cable companies should take affirmative steps to ensure that reasonable services are available regardless of income of a customer or the customer's neighborhood. (F-339)
- Long-term cable planning should be a high-capacity, state-of-the-art system. Two-way capacity should be installed and activated. Cable systems should be interconnected to other communications systems. They should be designed to be "open;" that is, the systems should be usable by many, for a variety of purposes. (F-340)
- Public uses of the cable system should be expanded as the system is upgraded. (F-341)

Issue:

If the negotiation policies are promulgated timely, they should be reviewed to determine if the cable service policies should be modified.

Because it is cable companies, and not the County, that provides these services, the policies are vague as to which entity should be performing the long range planning called out in Policies F- 337 and F-340. For clarification, these could be modified to provide that the County encourages the cable companies to perform the long range planning detailed in these policies.

c. Internet Access (pp. 8-29 and 8-30)

Internet access, particularly high-speed internet access, is changing the way people live and work. It is realistically possible for more people to telecommute with high-speed Internet access. This has a positive effect of reducing traffic congestion as well as reducing greenhouse gasses. Many individuals also spend more time using the Internet for educational and recreational purposes. Good Internet access also helps create community as individuals are able to stream government meetings, community events and have dialogues through blogs and hosted web site forums. The role of the Internet seems destined only to increase over time. While King County does not regulate Internet access, it does have two policies to encourage cable companies, builders and architects to enhance Internet access. The policies are listed below and are not proposed to be amended.

- F-342 Developers should collaborate with major employers to create developments that facilitate and encourage telecommuting by installing high-speed internet lines during construction of the project.

F-343 Builders and architects should work with the telecommunication industry to design state-of-the art cable-ready homes and offices.

Issue

A new policy to encourage public and private companies to create “hot zones” that allow wireless Internet access in public places could be added. King County is already doing this as are some private companies.

ATTACHMENTS:

Attachment 1 - Water Supply proposed policies

Attachment 2 - Code revision crosswalk for chapter 13.24.

ATTACHMENT 1

- F-225 Group A water systems shall be responsible for fulfilling their duty to provide timely and reasonable service within their approved service areas ~~((approved under))~~ as required by state law and the King County Comprehensive Plan and development regulations. Approved service areas include future service areas approved under the Public Water System Coordination Act (chapter 70.116 RCW) and retail service areas approved under RCW 43.20.260. The service areas for Group A public water systems are defined by Coordinated Water System Plans approved under chapter 70.116 RCW ~~((or))~~ and King County Code 13.28, and by individual water system plans reviewed and approved by the county under King County Code 13.24, and approved by the state under RCW 43.20. Water utilities required to submit water system plans to the county for review and approval under King County Code 13.24 shall describe in their plans how they intend to provide timely and reasonable service within their service areas. The description in the plan should include a description of when the utility will provide an initial response to a potential customer on the availability of water from the utility, and the terms and conditions under which it will be supplied, and shall include the utility's plan to provide timely and reasonable service throughout its approved service area. The Utilities Technical Review Committee (UTRC) shall be responsible for ensuring that water system plans include this information. The UTRC shall also be responsible for addressing any inconsistencies between the County's review and approval process for WSP's and the processes of the state Department of Health.
- F-226 Water service delivery within the Urban Growth Area shall meet the requirements of King County Code Section 21A.28.040, and be addressed in capital facility and infrastructure portions of water system plans, as provided for in Policy F-208. In the Urban Growth Area all new construction and all new subdivisions shall be served by an existing Group A public water systems except in the circumstance when no Group A public water system can provide service in a timely and reasonable manner per RCW 70.116.060 or when no existing system is willing and able to provide safe and reliable potable water with reasonable economy and efficiency per RCW 19.27.097.
- F-228 In the Urban Growth Area, if ~~((a))~~ an existing Group A water provider cannot provide direct service to new development in a timely and reasonable manner as required under RCW 70.116.060 or chapter 43.20 RCW, a new public water system may be established if it is owned and operated by the following, in order of preference:

- a. By the Group A system, in whose service area the system is located, via satellite management, or
- b. By a satellite management agency approved by the State Department of Health under contract with the Group A system in whose service area the system is located, provided that the existing Group A water system remains responsible for meeting the duty to serve the new system under RCW 43.20.260.

All new public water systems formed in the UGA shall connect to the Group A water system in whose service area the new system is located when direct service becomes available. Any well that is abandoned in the process of connecting to a Group A water system shall be decommissioned in conformance with applicable state law. All known and projected costs for anticipated connection shall be funded at the permitting stage of any proposed new construction or new subdivisions.

F-229 In the Rural Area, individual private wells, Group B water systems, and Group A water systems are all allowed; however, water service shall first be obtained when available from an existing Group A system, or, if such service is not available, then from an existing Group B system, before creation of a new system or use of private wells is allowed. Water service delivery within the Rural Area shall meet the requirements of King County Code Section 21A.28.040, and if provided by a water system, be addressed in capital facility and infrastructure portions of water system plans, as provided for in Policy F-208. Creation of a new public water system or the expansion of an existing Group B system may be allowed to serve new construction or new subdivisions when no Group A public water system can provide service in a timely and reasonable manner per RCW 70.116.060, or when an existing system is not willing and able to provide safe and reliable potable water with reasonable economy and efficiency per RCW 19.27.097. The provision of water service within Rural Areas shall be guided by the principle of maintaining the long-term integrity of Rural Area ecosystems, consistent with Countywide Planning Policy LU-15.

F-231 New subdivisions with more than six single-family lots on Vashon-Maury Island and in basins with closed ~~((basins))~~ streams in the Rural Area (as defined in WAC 173-507,508, 509, 510, and 515) may not be served by a potable water system using an exempt well, or a combination of multiple exempt wells. ~~((One exempt well per subdivision will be permitted unless more than one exempt well is needed to meet the water flow requirements for the six residences.))~~

Exempt wells are allowed only in the Rural Area and only under the following circumstances:

- a. New subdivisions or short subdivisions with six or fewer lots;
- b. Except as otherwise provided in subsection c. of this policy only one exempt well per subdivision or short subdivision will be permitted unless more than one exempt well is needed to meet the water flow requirements for the subdivision or short subdivision;
- c. Individual private wells may be used in a subdivision or short subdivision when all lots in the subdivision or short subdivision are twenty acres in area or larger; and
- d. New developments in the Rural Area served by ~~((a))~~ one or more exempt ~~((well, or))~~ wells shall not exceed one-half acre of irrigation.

F-232 King County shall work with the State Department of Ecology and the State Department of Health to ensure that existing provisions of state law that provide for tracking and measuring water withdrawals or diversions for sources of supply are fully utilized to meet public health, resource protection, land use, planning and fish recovery objectives and obligations. The discussions with the state agencies shall include the need for state or local procedures or additional authority to address (a) the construction of new exempt wells within existing water utility service areas, and (b) decommissioning of wells no longer in service. Any new or expanding Group B water system shall have a totalizing source meter and shall make information from the meter available upon request of King County. Consistent with Countywide Planning Policy CA-6, any depletion or degradation of aquifers used for potable supplies shall be avoided or mitigated, or feasible replacement sources be planned and developed.

F-233 King County supports development of a regional water supply plan for the entire region. Key components of this planning process should include:

- a. Involvement, oversight and support of elected officials in the region;
- b. Meaningful public participation including the involvement of the state and ~~((federally recognized))~~ tribes;
- c. Prioritization of future supplies, including a role for conservation and reclaimed water, and recognition of the impacts of climate change on future supplies;
- d. Assigned accountability for implementing conservation and developing new supplies and infrastructure such as transmission pipelines; and

e. Legislative changes, if necessary, to implement the plan.

F-234 King County should assure that a regional water supply plan for all of King County is prepared in cooperation with water utilities and in coordination with affected federally recognized tribal, local and state governments. A continuous and meaningful public process should be used to develop the regional water supply plan, resulting in a plan that is adopted by elected public officials in the region and used by the state in making water resource decisions. The regional water supply plan should implement and be consistent with growth management decisions made by local and regional jurisdictions under the Growth Management Act and the approved water quality and quantity strategies adopted by the region in compliance with federal requirements under the Endangered Species Act, Clean Water Act, and other authorities relevant to water quantity and quality, and consider the impacts of climate change on water demand and supply.

F-235 The county will work with water utilities, tribal governments, and other stakeholders to develop a water supply plan that prioritizes an array of potential sources, including conservation and reclaimed water, and defines a publicly- and state-accepted strategy for how the region could best meet future demands for water. During development of the regional water supply plan, the county will work in concert with water utilities to evaluate the projected water demands for population growth and other out of stream needs identified under the Growth Management Act, Endangered Species Act response provisions in plans developed under the state's Salmon Recovery Act, and Clean Water Act requirements for water quality. The evaluation of demands, and development of a plan, should address the water needs and supply options to support a viable agricultural industry within King County, and shall include the needs for other non-potable uses of water that may be supplied by reclaimed water. The county should use the information and products generated by the planning process to assist in the management of its reclaimed water system and water resources, and in its water supply planning activities, which include developing and implementing policies and approaches to water management and supply issues within King County's authority or within collaborative processes with other parties.

F-238 ~~((King County's water reuse program and projects, as well as water reuse and water supply/resources, should be coordinated with a regional water supply plan in accordance with state and federal~~

~~standards and coordinated with comprehensive land use plans.))~~ King County shall participate in the development of a regional water supply plan or plans addressing potable water supply service by multiple water purveyors to ensure that uses of reclaimed water intended to augment or replace potable water supplies will be considered in the development of any such plans, and for such other purposes as are authorized in the underlying authority for such a plan. King County's participation in the development of such plans shall be carried out in accordance with RCW 90.46.120, and pursuant to processes provided in the underlying planning authority.

F-239 King County shall partner with utilities to publicize water conservation and encourage best management practices that conserve potable water supply through measures that include use of alternative supplies such as reclaimed water. In exercising its role in reviewing utility water system plans, King County Utilities Technical Review Committee (UTRC) shall ~~((encourage))~~ ensure water system plans include an evaluation of reclaimed water opportunities and encourage water purveyors to include aggressive conservation and reuse measures where applicable, as well as development of new sources to support planned land uses with reliable service at ~~((minimum))~~ a reasonable cost. ~~((Efforts to encourage the use))~~ Potential uses of reclaimed water shall focus on existing and proposed source supplies for large water users, such as golf courses, ((and)) cemeteries,((-)) and parks; uses that could result in reducing direct withdrawals from streams and groundwater; uses that could enhance wetlands; and uses to help meet the water needs of agriculture. The provisions for the use of reclaimed water in any plan approved by the county should be included by the county in its review of provisions for water supplies for any proposed new land subdivision or short subdivision, as required under RCW 58.17, where the proposed subdivision or short subdivision is within the service area covered by the water system plan.

F-240 In its review of water system ~~((comprehensive))~~ plans, the King County Utilities Technical Review Committee (UTRC) shall consider the criteria provided in K.C.C. 13.24.010, .060, and .070, and determine the plan's consistency with the following:

- a. The King County Comprehensive Plan, land use plans, and development regulations adopted under the Growth Management Act;
- b. Approved or adopted regional water resource plans, including basin plans, groundwater plans, watershed-based conservation and recovery plans developed under ESA, salmon recovery plans

developed under chapter 77.85 RCW, water resource plans developed under chapter 90.54 RCW, watershed plans developed under chapter 90.82 RCW, and a regional water supply plan or water resource management plan; ~~((and))~~)

- c. State policies promoting the use of reclaimed water, including evaluation of reclaimed water opportunities as required by Chapter 90.46 RCW;
- d. The county's Regional Wastewater Services Plan;
- e. Other countywide plans managed by King County, such as the King County flood hazard management plan (as provided in Countywide Planning Policy CA-12) and the King County emergency management plan; and
- f. Other relevant county, regional or statewide plans, initiatives, or strategies, such as those to address climate change impacts on water resources, and for restoring Puget Sound.

The UTRC shall work with state agencies, water utilities, and other parties to develop any necessary rules, policies or checklists to provide clear information and guidance as to the county's expectations for its reviews. For each plan submitted to the county for review, the UTRC should have the goal of providing an initial response and comments to the water utility within the same timeframes as the state Department of Health under RCW 43.20.250.

- F-241 In reviewing proposals for modified and expanded service area boundaries for municipal water suppliers, the Utilities Technical Review Committee (UTRC) shall consider, in addition to Policy F-240:
- a. Compliance by the water system with its water system comprehensive plan, including water conservation elements; ~~((and))~~
 - b. Whether it can meet its duty to provide timely and reasonable service within its service area, as required under chapter 43.20 RCW; and
 - c. Consistency with the service provisions of any applicable Coordinated Water System Plan, as adopted in King County Code chapter 13.28.

The county shall not approve a water system plan with a proposed service area where the water system is unable to provide timely and reasonable service for one or more of the reasons identified in RCW 43.20.260. Timely and reasonable service by a water utility within its service area includes the provision of satellite or remote ownership or management of facilities that are not physically connected with the water utility's other facilities. This does not preclude a modified or expanded service area boundary for the water system in order to correct problems and provide reliable potable water service within the

proposed modified service area. The UTRC is responsible for making determinations of timely and reasonable service, as provided for under RCW 70.116, and K.C.C. 13.24 and 13.28.

F-242 Consistent with Countywide Planning Policies CO-3, CA-6, CA-9, and FW-5, the ((The)) Utilities Technical Review Committee (UTRC) should develop a water accounting program in conjunction with affected water utilities. The water accounting program should coordinate information on the rate, timing, and location of new development with the projected ability of water utilities to issue certificates of water availability. The UTRC, in conjunction with Department of Development and Environmental Services, should ensure that the certificate of water availability contains the information necessary to meet the requirements of K.C.C. 13.24.120 and 21A.28.040, and the King County Comprehensive Plan.

F-243 Public drinking water system reservoirs and their watersheds should be managed primarily for the protection of drinking water, but should allow for multiple uses, including recreation, when such uses do not jeopardize drinking water quality standards. State law (RCW 90.54.020(4) and (6)) prefers multipurpose storage reservoirs over single-purpose structures. Consistent with Countywide Planning Policy FW-5, Puget Sound, floodplains, rivers, streams, and other water resources shall be managed for multiple beneficial uses including flood and erosion hazard reduction, fish and wildlife habitat, agriculture, open space, water supply, and hydropower. Use of water resources for one purpose shall, to the fullest extent possible, preserve and promote opportunities for other uses. Public watersheds must ((also)) be managed to protect downstream fish and agriculture resources.

F-244 Groundwater-based public water supplies should be protected by preventing land uses that may adversely affect groundwater quality or quantity to the extent that the supply might be jeopardized. Consistent with Countywide Planning Policies CA-5 and CA-6, the county shall ensure that it protects the quality and quantity of groundwater used as water supplies by such actions as implementation of groundwater management plans, development of best management practices within aquifer recharge areas, and developing plans for replacement of depleted or degraded aquifers.

Attachment 2

PROPOSED ORDINANCE 2008-0216-0126 (CHAPTER 13.24 - WATER AND SEWER PLANS)

Ordinance Section	Code Section (Page/Line)	Revision Summary	Related Policy	Council Staff Comment
1	13.24.010 (2/37)	Includes the concept of "timely and reasonable service," as is required under both the 2003 Municipal Water Law and the Public Water System Coordination Act	F-225 F-241	<u>Calls for UTRC to "consider" "timely and reasonable service" for approval of modified or expanded service boundaries for of service providers</u>
2	13.24.020 (5/89)	Substitute department "staff" for department "engineers" with responsibility to make recommendations to DNRP Director on approvals of sewer and water system plans		<u>Technical correction</u>
3	13.24.035 (5/94)	Remove cross-reference to KCC 13.08.070, which has been repealed		<u>Technical correction</u>
4	13.24.060 (7/130)	Include flood hazard management and emergency response plans within the list of county adopted plans with which water and sewer plans must be consistent	F-240	<u>Executive is asking for Presumably calling for- water system / comprehensive plans to address emergency situations, in particular so that water sources can be adequately protected or other provisions specified.</u>
5	13.24.075 (8/152)	Clarify role of DNRP with respect to utility comprehensive plans and implementation of groundwater management plans and wellhead protection programs		<u>Clarifies DNRPs role in relation to the UTRC as an advisor on related water protection issues vs. stand-alone role</u>
6	13.24.080 (8/161 - 171)	Modify composition and membership of the Utilities Technical Review Committee (UTRC) by adding substituting department directors or designees and-and adding county demographer	F-238 through F-242	<u>Probably no practical change in that More specific as to representation from various departments</u>
7	13.24.090 (9/174)	Clarify authority the responsibilities of the UTRC	F-238 through F-242	<u>Small modifications clarifying UTRC responsibilities for advising Executive and Council regarding water system comprehensive plans adequacy and consistency with the Comprehensive Plan</u>

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Ordinance Section	Code Section (Page/Line)	Revision Summary	Related Policy	Council Staff Comment
8	13.24.100 (10/213)	Designates UTRC chair and authorizes participation by state DOE and DOH <u>as ex officio participants</u>	F-238 through F-242	<u>Technical amendment</u>
9	13.24.136 (102/247)	In limited circumstances, in the urban growth area, allow septic tanks if sewer service is not available for a proposed short subdivision	F-245	See analysis below.
10	13.24.138 (15/328)	<u>On Vashon-Maury Island a</u> Allows more than one exempt well if each lot in a subdivision is at least 20 acres	F-231	<u>Changes conditions for allowing well exemptions in this planning area only</u>
11	13.24.140 (17/353) (17/368)	1. Add restriction on use Adds permission of exempt wells as interim water service facilities to in situations where <u>Group A or Group B water service can be provided consistent with service preference order</u> can not be provided in timely and reasonable manner. 2. Require any well that is abandoned in the process of connecting to a Group A water system to be decommissioned	F-229 F-228	<u>Code still provides for preference order of Group A, then Group B service in urban area but acknowledges exemption under certain situations and requires property developer to connect to public water service when available and decommissioning of well.</u>

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